

Message Text

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ACTION EB-07

INFO OCT-01 NEA-09 ISO-00 L-02 TRSE-00 STR-01 AGR-05

CEA-01 CIAE-00 COME-00 DODE-00 FRB-01 H-01 INR-07

INT-05 LAB-04 NSAE-00 NSC-05 PA-01 RSC-01 AID-05

CIEP-01 SS-15 TAR-01 USIA-06 PRS-01 SP-02 FEAE-00

OMB-01 IGA-01 IO-10 /094 W
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R 131345Z JAN 75

FM AMEMBASSY NEW DELHI

TO SECSTATE WASHDC PRIORITY 6267

LIMITED OFFICIAL USE NEW DELHI 0585

E.O. 11652: N/A

TAGS: EINV, ETRD, IN

SUBJ: US-GOI ECONOMIC/COMMERCIAL SUBCOMMISSION--
INDIAN ELIGIBILITY FOR GENERALIZED PREFERENCES (GSP)
UNDER SEC. 502(B)(4) OF THE TRADE ACT OF 1974

REF: STATE 004290

1. THE FOLLOWING ARE OUR COMMENTS ON THE SIGNIFICANCE
OF THE THREE CASES MENTIONED IN THE REFTEL WITH RESPECT
TO SEC. 502(B)(4) OF THE TRADE ACT OF 1974:

(A) NATIONALIZATION OF GENERAL INSURANCE: WE HAVE
HAD NO RECENT INDICATION FROM ANY OF THE US COMPANIES
INVOLVED IN THE 1972 TAKEOVER OF THE GENERAL INSURANCE
BUSINESS THAT THEY ARE UNSATISFIED WITH THE SIZE OF THE
ACQUISITION AMOUNTS PROVIDED FOR IN THE GOI LEGISLATION.
THE LATEST INFORMATION IN OUR FILES IS A NOV. 25 LETTER
FROM MORLEY, NEA/INS, TO LANDE, WHICH RESPONDS TO OUR
REQUEST FOR A STATUS REPORT ON THE CASE. DIFFICULTIES
UNDER 502(B)(4) COULD ARISE IN THIS CASE IF THE GOI
RESOLVES THE OUTSTANDING ISSUES CONCERNING TREATMENT OF
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THE COMPANIES' SURPLUS ASSETS AS OF DECEMBER 31, 1972, IN

A MANNER WHICH THE COMPANIES CONSIDER UNACCEPTABLE. DELAYS IN RECEIPT OF THE ACQUISITION AMOUNTS COULD ALSO RESULT IN INVOCATION OF 502(B). THERE SHOULD BE AN EXTENSIVE FILE IN INSURANCE NATIONALIZATION IN NEA/INS.

(B) MCNALLY BHARAT ENGINEERING CO.: BASIS FOR GOI REQUIREMENT THJIESCNALLY PITTSBURGH AGREE TO DILUTION OF EQUITY WAS THE CAPITAL ISSUES CONTROL ACT WHICH GRANTS BROAD POWERS TO GOI CONTROLLER OF CAPITAL ISSUES IN CASES WHERE COMPANIES SEEK TO RAISE ADDITIONAL CAPITAL. PASSAGE OF FOREIGN EXCHANGE REGULATION ACT (FERA) GAVE GOI ADDITIONAL STATUTORY AUTHORITY TO REQUIRE DILUTION. IT IS OUR UNDERSTANDING THE MCNALLY PITTSBURGH HAS AGREED TO THE DULUTION TO 38 PERCENT (NEW DELHI 10494, 7 AUG 74 AND STATE 174317 10 AUG 74). 502(B) QUESTION SHOULD NOT ARISE IN THIS CASE.

(C) IDI MANAGEMENT, INC.: BEING COVERED SEPTTEL BUT WE DO NOT BELIEVE 502(B)(4) APPLIES.

2. WE CAN THINK OF NO CURRENT CASES WHERE QUESTIONS OF EXPROPRIATION OR NATIONALIZATION WITHOUT PROMPT AND ADEQUATE COMPENSATION HAVE BEEN RAISED. THERE IS A POSSIBILITY THAT SOME OF THE US FIVRMS WHICH ARE BEING REQUIRED TO DILUTE THEIR EQUITY HOLDINGS IN BUSINESSES IN INDIAV UNDER FERA MIGHT, NOW THAT THE PROVISION EXISTS IN THE TRADE ACT, CLAIM EXPROPRIATION IN EFFECT. SO FAR AS WE HAVE BEEN ABLE TO DETERMINE, THE COMPANIES SO FAR AFFECTED HAVE EITHER REACHED AGREEMENT WITH THE GOI ONV UNIFORMITY WITH GUIDELINES, ARE STILL DISCUSSING MEANS OF REDUCING THEIR EQUITY HOLDINGS, OR HAVE SECURED SPECIAL CASE EXEMPTIONS FROM THE GOI.

3. WE DO NOT PLAN TO RAISE THE MATTER WITH GOI OFFICIALS (PARA 5 REFTTEL) AT THIS TIME BECAUSE THERE ARE NO BILATERAL INVESTMENT DISPUTES THAT WOULD IN OUR OPINION, JUSTIFY INVOCATION OF SECTION 502(B)(4) OF THE TRADE ACT.

SCHNEIDER

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